

Message Text

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ACTION L-03

INFO OCT-01 EUR-12 EB-07 ISO-00 COME-00 SSO-00 /023 W

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FM AMEMBASSY LONDON

TO SECSTATE WASHDC IMMEDIATE 9149

UNCLAS SECTION 01 OF 02 LONDON 02649

FOR THOMAS J. RAMSEY, L/M AND
COMMERCE DEPT., OIM FOR MOORHOUSE

E.O. 11652: N/A

TAGS: ASUP UK

SUBJECT: U.S. TRADE CENTER VS. HERBERT MEYER

FOLLOWING MESSAGE BEING TRANSMITTED FROM IAN SMITH:

SUPPLEMENTAL OPINION BY N. ROYCE
IN THE MATTER OF THE ARBITRATION ACT 1950
AND IN THE MATTER OF THE ARBITRATION BETWEEN:
USA DEPARTMENT OF STATE, CLAIMANT
AND HERBERT I. MEYER, RESPONDENT
IN REPLY TO YOUR LETTER OF THE 16TH OF FEBRUARY, AND
FURTHER TO CALL AT THE U.S. EMBASSY ON FRIDAY, 13TH OF
FEBRUARY, I REPORT AS FOLLOWS:
1. I CARRIED OUT AN EXAMINATION OF THE DRAWINGS PRE-
PARED BY MR. HERBERT MEYER, WHICH CONSISTED OF LAYOUTS
OF THE VARIOUS FLOORS SHOWING THE PROPOSED NEW WORKS,
AND INCORPORATING REVISIONS.

2. THERE WERE ALSO SKETCH DETAILS OF AMENDMENTS CARRIED
OUT DURING THE COURSE OF THE CONTRACT AND DIMENSIONS
SURVEY DRAWINGS WITH FINISHED WORK. THESE DRAWINGS
WERE OF A GOOD STANDARD AND ADEQUATE FOR USE OF THE
BUILDING CONTRACTOR WHEN READ IN CONJUNCTION WITH THE
DETAILS PREPARED BY THE PREVIOUS ARCHITECT MR. GOODAY.

3. I ALSO EXAMINED THE LAYOUT DRAWINGS AND DETAILS PRE-
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PARED BY MR. GOODAY. THESE WERE OF A VERY HIGH STAND-

ARD AND COMPREHENSIVE. COMPARISON OF MR. GOODAY'S LAYOUT DRAWINGS WITH THOSE OF MR. MEYER INDICATED QUITE CLEARLY THAT MR. MEYER'S LAYOUT DRAWINGS WERE TRACINGS OF THE ORIGINAL LAYOUTS PROVIDED BY MR. GOODAY, BUT INCORPORATING AMENDMENTS.

4. EXAMINATION OF THESE DRAWINGS CONFIRMED THE OPINION I EXPRESSED IN MY REPORT DATED 12 FEBRUARY, THAT MR. MEYER WAS INVOLVED WITH ADDITIONAL WORKS IN CONNECTION WITH THE AMENDMENTS DURING THE CONTRACT AND WITH THE PREPARATION OF SURVEY DRAWINGS. ADDITIONAL WORK COULD NOT HAVE REASONABLY BEEN FORESEEN WHEN MR. MEYER WAS APPOINTED, ALTHOUGH HE DID AGREE TO A FIXED FEE FOR HIS SERVICES.

5. WHEN AN ARCHITECT IS INVOLVED IN CHANGES IN INSTRUCTIONS IT IS LAID DOWN IN THE "OPEN CONDITIONS OF ENGAGEMENT" OF THE RIBA UNDER PARAGRAPH L.70 ON PAGE 7, THAT "EXTRA WORK AND EXPENSE CAUSED IN ANY STAGE RESULTING FROM DELAY IN RECEIVING INSTRUCTIONS, DELAYS IN BUILDING OPERATIONS, CHANGES IN THE PLANS' INSTRUCTIONS, PHASED CONTRACTS, BANKRUPTCY, OR LIQUIDATION OF THE CONTRACTOR, OR ANY OTHER CAUSE BEYOND THE CONTROL OF THE ARCHITECT SHALL BE ADDITIONALLY CHARGED ON A TIME BASIS."

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6. IN CALCULATING THE COST OF WORK ON A TIME BASIS GUIDANCE IS GIVEN UNDER PARAGRAPH 5.11 ON PAGE 19, WHICH

STATES "THE MINIMUM HOURLY RATE FOR ARCHITECTURAL AND OTHER OPERATIONAL STAFF, INCLUDING RESIDENT ARCHITECTS AND CLERKS OF WORK SERVICE NOT APPOINTED AND PAID DIRECT BY THE CLIENT, SHALL BE 15 PENCE PER HOUR FOR EACH 100 POUNDS OF GROSS ANNUAL SALARY, WHICH SHALL INCLUDE BONUS PAYMENTS AND EMPLOYERS' SHARE OF OTHER OVERHEAD SUCH AS NATIONAL INSURANCE AND OCCUPATIONAL PENSION SCHEMES."

7. I AM OF THE OPINION THAT A REASONABLE CHARGE FOR THE ADDITIONAL WORK CARRIED OUT BY MR. MEYER WOULD HAVE BEEN APPROXIMATELY 2,000 POUNDS PLUS THE REASONABLE COST OF OUT OF POCKET EXPENSES OF SAY 500 POUNDS, GIVING A TOTAL FIGURE OF 2,500 POUNDS, EXCLUSIVE OF VAT.

8. I AM OF THE OPINION THAT A PRUDENT ARCHITECT, ON TAKING OVER A COMMISSION FROM ANOTHER ARCHITECT, WOULD HAVE TO INSURE THAT ALL STATUTORY APPROVALS HAD BEEN OBTAINED AND THAT THE SCHEME AS ILLUSTRATED ON THE DRAWINGS WAS SPECIFICALLY IN ACCORDANCE WITH THE REQUIREMENTS OF THE DISTRICT SURVEYOR AND THE PUBLIC HEALTH AUTHORITY, AND I AM FURTHER OF THE OPINION THAT IN CONSIDERING THE PROGRAM FOR THE WORK MR. MEYER WOULD HAVE INCLUDED FOR OBTAINING ANY ADDITIONAL CONSENTS REQUIRED. YOURS FAITHFULLY, NORMAN ROYCE.

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